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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,136	10/24/2003	David M. Allen	2646-000001	1778
27572	7590	04/03/2006	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			NGUYEN, SON T	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3643	
DATE MAILED: 04/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/693,136

Applicant(s)

ALLEN, DAVID M.

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN  
PRIMARY EXAMINER

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Upon further consideration based on the Pre-Appeal Brief Panel Decision mailed on 1/31/06, the Office Action mailed on 10/17/05 has been withdrawn in view of the following action:

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1,2,4-5,7-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawley (5085001) in view of Hinsperger (5070643).

For claims 1 & 9, Crawley teaches a ground mat 10 comprising a non-rigid base 11; a plurality of hold-downs 27 coupled to the base. However, Crawley is silent about a plurality of tensioners, each tensioner having a first portion that is fixedly coupled to the base and a second portion that may be selectively coupled to the first portion to adjust a distance between an associated pair of the hold-downs to thereby adjust a size, a shape or both the size and the shape of a perimeter of the non-rigid base.

Hinsperger teaches a ground mat comprising a plurality of tensioners 10,12, each tensioner having a first portion 10 that is fixedly coupled to the base and a second portion 12 that may be selectively coupled to the first portion to adjust a distance between an associated pair of the hold-downs to thereby adjust a size, a shape or both the size and the shape of a perimeter of the non-rigid base; wherein the first portion

includes a loop 10 and the second portion includes a strap 12, the strap having a first end (see fig. 1, the end near where ref. 12 is pointing at that goes through the first loop 10), which is secured to the base, and a second end (see fig. 1, the end near where ref. 10 is pointing at which goes through the loop 10) that is disposed through the loop.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ tensioners with the features as taught in Hinsperger in the ground mat of Crawley in order to further hold down the mat in harsh wind condition (col. 4, lines 46-68 of Hinsperger).

For claim 2, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein the base includes a pair of edges that cooperate to define a slit 14 and wherein the protective ground mat further includes a closure device 29 for selectively closing the slit.

For claim 4, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein the slit extends from an outer edge of the base to a point outwardly of a center of the base.

For claim 5, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein the slit terminates inwardly at a series of perforations 16,17.

For claim 7, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein the series of perforations define a plurality of shapes (see figs.1-2).

For claim 8, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein each shape is disposed inside or abuts another one of the shapes (see figs.1-2).

For claim 10, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein an aperture 13 is formed in the base and the slit intersects the aperture.

For claim 11, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches cutting indicia 16,17 on the base.

For claim 12, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein the cutting indicia defines a plurality of shapes (see figs. 1-2).

For claim 13, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein each shape is disposed inside or abuts another one of the shapes (see figs. 1-2).

For claim 14, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein the shapes are concentric with one another (see figs. 1-2).

For claim 15, Crawley as modified by Hinsperger (emphasis on Crawley) further teaches wherein each of the shapes is similar but differently sized (see figs. 1-2).

4. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Crawley as modified by Hinsperger as applied to claims 1-2 above, and further in view of Hansen (6128852).

Crawley as modified by Hinsperger (emphasis on Crawley) is silent about the closure device being at least one of a hook and loop fastener and a zipper.

Hansen teaches a ground mat comprising a closure device being a hook and loop fastener 44,46 to close off a slit 22 in the mat (see fig. 5).

It would have been an obvious substitution of functional equivalent to substitute the closure device of Crawley as modified by Hinsperger with a hook and loop fastener as taught by Hansen, since both types of fastener would perform the same function to selectively closing the slit.

5. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Crawley as modified by Hinsperger as applied to claims 1-2,4-5 above, and further in view of McMurtney (5058317).

Crawley as modified by Hinsperger is silent about a plurality of intersecting lines.

McMurtrey teaches a ground mat having a plurality of intersecting lines 16,22,36.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a plurality of intersecting lines as taught by McMurtrey in the mat of Crawley as modified by Hinsperger in order to hug tightly around the object to be surrounded.

6. **Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over Crawley (5085001) in view of Hinsperger (5070643) and Hansen (6128852).

Crawley teaches the mat as explained in claim 1 above. Hinsperger teaches a ground mat with tensioners as explained above. Hansen teaches a ground mat with hook and loop closure device as explained above. Therefore, the combination of Crawley as modified by Hinsperger and Hansen teaches the limitation as claim (see the above explanation of motivation to combine).

7. **Claims 17-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (US 6128852) in view of Hinsperger (US 5070643).

For claim 17, Hansen teaches a method of installing a ground mat having a non-rigid base 36, the method comprising the steps of securing the mat to the ground at a plurality of locations by laying the mat down. However, Hansen is silent about the step of tensioning.

Hinsperger teaches a method of installing a ground mat having the step of tensioning the base 4 after it has been secured to the ground by tying tensioners 12 to hold-downs 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the step of tensioning as taught by Hinsperger in the method of Hansen in order to hold down the mat from wind and to allow a user to adjust the distance of the hold-downs by using the tensioners.

For claim 18, Hansen as modified by Hinsperger (emphasis on Hansen) further teaches wherein prior to securing the mat to the ground, the method includes opening a slit in the base and fitting the base about an object as shown in fig. 1 around the plant 26.

For claim 19, Hansen as modified by Hinsperger (emphasis on Hansen) further teaches wherein the step of fitting the base about an object includes forming a hole in the base, the hole intersecting the slit as shown clearly in fig. 5.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection. However, argument pertaining to claims 17-19 will be addressed herein because these claims are still rejected as originally

presented. The arguments are obtained from Applicant's pre-appeal brief request filed on 12/29/05.

**Applicant argued that regarding the suggestion for the combination, Applicant notes that as the Hansen tarp is configured to be placed about a tree or bush just prior to a trimming operation and removed therefrom immediately after the trimming operation, there is no need or suggestion in these references to employ the stakes and rope of Hinsperger reference. In this regard, the stakes and rope of Hinsperger would be undesirable in that they would impede efficient removal of the tarp. Moreover, as the rope of Hinsperger does not appear to be capable of applying tension to the tarp of Hansen, it is not a tensioner. The combination of the Hansen and Hinsperger references, therefore, does not teach or suggest a method that includes tensioning the base after it has been secured to the ground as recited in Claim 17.**

"Configured" is intended use of the device of Hansen (see MPEP 2114). Nowhere in Hansen's specification does he said that one has to remove the tarp immediately after trimming. This is a mere allegation by Applicant without factually evidence of the teaching of Hansen. One can leave the tarp there as long as needed and if in windy condition, one might want to use a tensioning device such as taught by Hinsperger so that the tarp will not blow away. The motivation to combine is obvious for the reason of holding down the tarp in windy condition, while trimming or not.

Claim 17 does not indicate tensioning to adjust the size and/or shape of the perimeter of the base. Claim 17 merely states tensioning the base to conform to a



contour of the ground. Thus, ropes 12 do applied tension to the base at the surface as stated by Applicant, which meets the claimed limitation. Tensioning the base is broad language, thus, can be interpreted many ways, which one way is the rope 12 puts tension or force on the surface of the base, thus, will tensioned the base in the area the force is applied. In addition, the ropes 12 are looped through the stakes 8 as shown in fig. 6, which ropes and stakes do tensioned the base on the ground.

### ***Conclusion***


9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Note, although the final office action mailed on 10/07/05 has been withdrawn, the amendment filed on 8/2/05 is pending and in this amendment, Applicant has amended the claim language, thus, necessitated a new ground of rejection from the non-final action mailed on 6/1/05.

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Son T. Nguyen  
Primary Examiner  
Art Unit 3643

stn